

SUBJECT: Establishing venue in obstruction or retaliation cases

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Hunter, Gervin-Hawkins, Hefner, Lang, Wilson
0 nays
1 absent — Canales

WITNESSES: For — Janna Whatley; (*Registered, but did not testify:* Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT))
Against — None
On — (*Registered, but did not testify:* Shannon Edmonds, Texas District and County Attorneys Association)

BACKGROUND: Penal Code, sec. 36.06 makes it a crime under obstruction or retaliation to harm or threaten to harm someone because of the individual's service or status as a public servant, witness, prospective witness, or informant. It is also an offense under this section to harm or threaten to harm someone because the person has reported or a crime or because the offender knows the person intends to report a crime.

DIGEST: HB 268 would create statutory venue options in obstruction or retaliation cases. Under the bill, obstruction or retaliation could be prosecuted in the county where the harm occurred or in the county where the threat of harm originated or was received.
The bill would take effect September 1, 2017, and would apply only to venue for the trial of an offense committed on or after that date.

SUPPORTERS SAY: HB 268 would clarify where venue could be established in retaliation crimes and bring it in line with similarly structured crimes for which origination and harm can occur in different counties. As with such crimes,

the venue in retaliation cases could be in the county where the offense originated. HB 268 would provide clarity and consistency to venue rules.

HB 268 would help protect victims and their families, who could be subjected to unnecessary distress when those who made threats to their safety, family, and home are brought to their communities. This could create a disincentive to pursue a case.

Venue in retaliation cases currently is governed by case law that often is interpreted as providing venue solely in the county where a threat was received but not where it originated. This means that a victim must have the case prosecuted in the victim's home venue, even if the perpetrator lives somewhere else. A judge receiving death threats from a prisoner in another county must endure having the accused brought to the judge's rural county for trial, raising security concerns for the judge and others in a small courthouse.

For cases involving defendants who are incarcerated, HB 268 would prevent those defendants from receiving the benefit of a "field trip" from prison or jail to another county for trial. It also would help smaller counties avoid the logistical and practical difficulties of handling state prisoners in their jails.

OPPONENTS
SAY:

No apparent opposition.